

Court of Appeals, State of Michigan

ORDER

People of MI v Jerome Edward Bray

Docket No. 306154

LC No. 97-501027-01-FC

Karen M. Fort Hood
Presiding Judge

Kurtis T. Wilder

Christopher M. Murray
Judges

On April 26, 2012, this Court issued an order holding in abeyance the delayed application filed by defendant, in pro per, and directing the Wayne County Prosecutor's Office to file an answer. The prosecution was directed to address the merits of the trial court's ruling that MCL 791.234(12) was not applicable because defendant was sentenced as an habitual offender and the trial court's reliance on an Attorney General opinion in denying the motion. The prosecution complied with this Court's order, and in its answer, the prosecution acknowledges that the Attorney General opinion has been repudiated by later statutory amendments, that the portion of the Attorney General opinion quoted by the trial court has no application to defendant's sentence, and that the trial court erred in relying upon the Attorney General opinion in denying defendant's motion for a determination of cooperation. The answer further acknowledges that defendant is eligible under MCL 791.234(12) for a hearing to determine whether he has cooperated with law enforcement. The Court now removes the application from abeyance.

The Court orders that the August 11, 2011, opinion and order of the Wayne County Circuit Court is REVERSED. The trial court erred in ruling that MCL 791.234(12) did not apply to defendant because he was sentenced as an habitual offender. The matter is REMANDED for further proceedings on defendant's motion for a determination of cooperation under MCL 791.234(12).

The motion "for leave to cure any deficiency in pleadings previously filed" is GRANTED.

The Court retains no further jurisdiction.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

MAY 31 2012

Date


Chief Clerk